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Office of the Attorney General



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**PAUL G. SUMMERS**  
ATTORNEY GENERAL AND REPORTER

**ANDY D. BENNETT**  
CHIEF DEPUTY ATTORNEY GENERAL

**LUCY HONEY HAYNES**  
ASSOCIATE CHIEF DEPUTY  
ATTORNEY GENERAL

MAILING ADDRESS

P.O. BOX 20207  
NASHVILLE, TN 37202

**MICHAEL E. MOORE**  
SOLICITOR GENERAL

CORDELL HULL AND JOHN SEVIER  
STATE OFFICE BUILDINGS

TELEPHONE 615-741-3491  
FACSIMILE 615-741-2009

November 20, 2003

Honorable Deborah Taylor Tate  
Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243

**RE: PETITION OF CHATTANOOGA GAS COMPANY, NASHVILLE GAS COMPANY, A.  
DIVISION OF PIEDMONT NATURAL GAS COMPANY, INC., ATMOS ENERGY  
CORPORATION FOR A DECLARATORY RULING REGARDING THE  
COLLECTIBILITY OF THE GAS COST PORTION OF UNCOLLECTIBLE ACCOUNTS  
UNDER THE PURCHASED GAS ADJUSTMENT ("PGA") RULES  
Docket No. 03-00209**

Dear Chairman Tate:

Enclosed is an original and thirteen copies of a Response in Opposition to Petitioners' Motion for Summary Judgment. Kindly file the attached in this docket. By copy of this letter, we are serving all parties of record. If you have any questions, please feel free to contact me at (615) 532-3382. Thank you.

Sincerely,

Shilina B. Chatterjee  
Assistant Attorney General  
(615) 532-3382

Enclosures

cc: Kim Beals, Esq.  
Hearing Officer  
All Parties of Record

70252

**IN THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

<b>IN RE:</b>	<b>) DOCKET NO. 03-00209</b>
	<b>)</b>
<b>PETITION OF CHATTANOOGA GAS</b>	<b>)</b>
<b>CO., NASHVILLE GAS CO., A DIVISION</b>	<b>)</b>
<b>OF PIEDMONT NATURAL GAS CO.,</b>	<b>)</b>
<b>INC. AND UNITED CITIES GAS</b>	<b>)</b>
<b>COMPANY, A DIVISION OF ATMOS</b>	<b>)</b>
<b>ENERGY CORP. FOR A</b>	<b>)</b>
<b>DECLARATORY RULING REGARDING</b>	<b>)</b>
<b>THE COLLECTIBILITY OF THE GAS</b>	<b>)</b>
<b>COST PORTION OF UNCOLLECTIBLE</b>	<b>)</b>
<b>ACCOUNTS UNDER THE PURCHASE</b>	<b>)</b>
<b>GAS ADJUSTMENT ("PGA") RULES.</b>	<b>)</b>

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**RESPONSE IN OPPOSITION TO PETITIONERS' MOTION FOR SUMMARY  
JUDGMENT**

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COMES NOW the Tennessee Attorney General, through the Consumer Advocate & Protection Division ("Consumer Advocate") and hereby responds to the Petitioners' Motion for Summary Judgment filed by Chattanooga Gas Company, Nashville Gas Company and Atmos Energy Corp (collectively referred to as "Petitioners") in the above-captioned matter before the Tennessee Regulatory Authority ("TRA"). This Memorandum in Response to the Petitioners' Motion for Summary Judgment will set forth that summary judgment should not be granted in favor of the Petitioners. Moreover, as a matter of law Uncollectible Accounts are not included in the Purchase Gas Adjustment Rules, 1220-4-7, *et seq.* ("PGA rules") and inclusion of Uncollectible Accounts in the PGA rules is inconsistent with the intent of the PGA rules. Therefore, Petitioners' Motion for Summary Judgment should be denied.

## **I. ARGUMENT**

Petitioners should not be permitted to include Uncollectible Accounts in the PGA rules. The Consumer Advocate has previously set forth in its Memorandum in Support of Motion for Summary Judgment and its Reply Memorandum to Petitioners' Response in Opposition the various legal bases as to why the Petitioners should not be permitted to include Uncollectible Accounts in the PGA. The Consumer Advocate hereby incorporates, adopts and relies upon all statements of law and arguments set forth in its Memorandum in Support for Summary Judgment dated October 1, 2003 and its Reply Memorandum to Petitioners' Response in Opposition to Summary Judgment with supporting Affidavit of Daniel W. McCormac dated November 3, 2003. In addition, the Consumer Advocate sets forth the following arguments for additional emphasis.

### **A. INTENT OF THE PGA RULES DO NOT ALLOW FOR UNCOLLECTIBLE ACCOUNTS EXPENSE TO BE INCLUDED AS GAS COSTS**

Petitioners have misconstrued the intent of the PGA rules. The intent of the PGA rules is to allow the gas companies to recover "the total cost of gas purchased for delivery to its customers."<sup>1</sup> The purpose of the PGA is for the gas companies to be able to recoup the cost of gas paid to suppliers. In order to understand the purpose and intent of the PGA rules, a historical background is helpful and provides clarification. Prior to the inception of the PGA rules in the 1970's, the gas utility's rate case included the cost of gas and set forth what they would pay for gas in the future. Due to the period of heavy fluctuations in gas prices that began in the 1970's, gas prices became volatile. This would have meant that the gas utilities would have to file a rate case in order to increase their authorized rate each time gas prices fluctuated. In order for

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<sup>1</sup> TRA Rule 1220-4-7-.02.

consumers to be billed to cover the increased costs of natural gas, a rate case was required under the regulatory framework in place.<sup>2</sup> As a result, the TRA decided to adopt the PGA rules as a means of avoiding a series of rate cases and to allow the gas companies to bill consumers for the major fluctuations of natural gas prices.<sup>3</sup> The PGA mechanism allowed for utility rates to more closely coincide with the gas companies' gas costs. In 1990, a major revision to the PGA rules was made since the price of natural gas was still rapidly increasing and unstable.<sup>4</sup> The changes to the PGA rules were a result of a petition for a rulemaking filed in 1986 by the same Petitioners in this matter.<sup>5</sup> At that time, the Petitioners claimed that there were changes in the gas industry that required a revision to the PGA rules.<sup>6</sup> The changes to the PGA rules were to allow gas companies to recover the cost of gas, the cost of transportation, the cost of storage and other costs paid to gas suppliers.<sup>7</sup> Essentially, the changes provided for a balancing account that insured that the gas companies recovered their gas costs through the PGA mechanism.<sup>8</sup> This is the same mechanism that is in place today in the PGA rules.

In 1986, the Commission considered the intent as the primary issue in the 1986 rulemaking

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<sup>2</sup> Affidavit of Daniel W. McCormac, p. 5, line 79-84.

<sup>3</sup> Affidavit of Daniel W. McCormac, p. 5, lines 86-88.

<sup>4</sup> Affidavit of Archie Hickerson, p. 4, lines 20-21.

<sup>5</sup> Affidavit of Archie Hickerson, p. 4, lines 9-13.

<sup>6</sup> Affidavit of Archie Hickerson, p. 5, lines 13-15.

<sup>7</sup> Affidavit of Archie Hickerson, p. 6, lines 16-19.

<sup>8</sup> Affidavit of Archie Hickerson, p. 6, lines 20-21.

proceeding.<sup>9</sup> The TRA (then known as the Public Service Commission) was specific about the purpose and what was to be included in the PGA rules. The TRA specified in the PGA rules the exact components of the PGA mechanism. There was no intent to include Uncollectible Accounts. Rather, Uncollectible Accounts have always been a part of base rates and even today, is included as an operating expense in the gas companies base rates.

The essence of the intent of the PGA rules is to allow gas companies to keep their gross profits stable.<sup>10</sup> This is achieved through preventing undercollection and overcollection of gas costs through the PGA mechanism.<sup>11</sup> The PGA only addresses gas cost expenses when billed.

In this proceeding, the Petitioners are claiming that Uncollectible Accounts expense is a gas cost and should be included in the PGA. Uncollectible Accounts is not a gas cost and cannot be categorized as one. The intent and purpose of the PGA rules did not envision Uncollectible Accounts expense to be included. If it was intended to be included in the PGA rules, it would have been included in the PGA rules since its inception. Instead, Uncollectible Accounts have historically been included in base rates. The PGA rules have never considered or categorized Uncollectible Accounts as a gas cost. The PGA was not intended to be the vehicle for recovery

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<sup>9</sup> Affidavit of Archie Hickerson, Petitioners Response in Opposition to the Consumer Advocate's Motion for Summary Judgment, *In Re: Petition of Chattanooga Gas Company, Nashville Gas Company, A Division of Piedmont Natural Gas Company, Inc., Atmos Energy Corporation for a Declaratory Ruling Regarding the Collectibility of the Gas Cost Portion of Uncollectible Accounts Under the Purchased Gas Adjustment ("PGA") Rules*, Exhibit #2 p. 9, line 9-11.

<sup>10</sup> Affidavit of Daniel W. McCormac, Reply Memorandum to Petitioners' Response in Opposition to the Motion for Summary Judgment of the Consumer Advocate and Protection Division, *In Re: Petition of Chattanooga Gas Company, Nashville Gas Company, A Division of Piedmont Natural Gas Company, Inc., Atmos Energy Corporation for a Declaratory Ruling Regarding the Collectibility of the Gas Cost Portion of Uncollectible Accounts Under the Purchased Gas Adjustment ("PGA") Rules*, p. 8, lines 146-147.

<sup>11</sup> Id. at p. 8, lines 147-148.

of Uncollectible Accounts expense or what the Petitioners refer to as the “gas costs portion of Uncollectible Accounts.” Also, no portion of Uncollectible Accounts expense has ever been construed as gas costs either in application or theoretically in accounting practice.

**B. COSTS OF GAS PURCHASED FOR DELIVERY DO NOT CONTINUE TO BE “GAS COSTS” WHEN UNCOLLECTED**

Petitioners’ assertion that costs of gas purchased for delivery remain “Gas Costs”<sup>12</sup> regardless of whether they are collected or uncollected is incorrect.<sup>13</sup> In accounting theory and practice, Uncollectible Accounts expense are not considered gas costs. Under the Uniform System of Accounts (USOA), Uncollectible Accounts are included in a group of accounts called “Customer Accounts Expense.”<sup>14</sup> (Exhibit A) The reason why it is included in the base rates of

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<sup>12</sup> TRA Rule 1220-4-7-.01 defines Gas Costs as:

the total delivered costs of gas paid or to be paid to Suppliers, including but not limited to, all commodity/gas charges, demand charges, peaking charges, surcharges, emergency gas purchases, over-run charges, capacity charges, standby charges, gas inventory charges, minimum bill charges, take-or-pay charges and take and pay charges, storage charges, service fees and transportation charges and any other similar charges that are paid by the Company to its gas suppliers in connection with the purchase, storage or transportation of gas for the Company’s system supply.

<sup>13</sup> Petitioners’ Response in Opposition to Motion for Summary Judgment of the Consumer Advocate and Protection Division, *In Re Petition of Chattanooga Gas Company, Nashville Gas Company, A Division of Piedmont Natural Gas Company, Inc. and United Cities Gas Company, A Division of Atmos Energy Corporation for a Declaratory Ruling Regarding the Collectibility of the Gas Costs Portion of Uncollectible Accounts Under the Purchased Gas Adjustment (“PGA”) Rules*, Docket No. 03-00209, October 27, 2003, p. 6.

<sup>14</sup> Affidavit of Daniel W. McCormac, Reply Memorandum to Petitioners’ Response in Opposition to the Motion for Summary Judgment of the Consumer Advocate and Protection Division, *In Re: Petition of Chattanooga Gas Company, Nashville Gas Company, A Division of Piedmont Natural Gas Company, Inc., Atmos Energy Corporation for a Declaratory Ruling Regarding the Collectibility of the Gas Cost Portion of Uncollectible Accounts Under the Purchased Gas Adjustment (“PGA”) Rules*, p. 8-9, lines 154-157.

gas companies is because it is a non-gas operating expense of a gas company. The purpose of a rate case and the design of base rates are for gas companies to produce a certain level of revenues.<sup>15</sup> The base rates in a rate case cover all just and reasonable operating expenses (excluding gas costs) to provide a adequate return to the gas company. Once rates are designed and approved by a regulatory body to cover these costs, these rates are billed to consumers.<sup>16</sup> During the setting of base rates in a rate case, all controllable expenses are examined closely by the TRA to assure the reasonableness of expense levels.<sup>17</sup> There is no separation of Uncollectible Accounts into gas costs and non-gas costs because it is no longer considered a gas cost once it becomes an Uncollectible Account. Rather, it is treated and labeled as “Customer Accounts Expense” of the gas company.<sup>18</sup> On the other hand, actual gas costs are treated differently from other operating expenses and are incorporated in the PGA mechanism. The gas costs are computed using the PGA rules and excluded from the base rates. The PGA rules were designed to allow for the fluctuations of gas companies’ gas costs and are adjusted to keep up with the rapidly changing cost of gas.<sup>19</sup> It would be contrary to the practice of setting base rates and the operation of the PGA rules to now include Uncollectible Accounts in the PGA rules. Uncollectible Accounts are not gas costs and were not contemplated to be included in the PGA mechanism.

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<sup>15</sup> Id. at p. 9, lines 174-175.

<sup>16</sup> Id. at p. 9, lines 178-179.

<sup>17</sup> Id. at p. 10, lines 197-198.

<sup>18</sup> Id. at p. 10, lines 195-200.

<sup>19</sup> Id. at p. 10-11, lines 202-205.

**C. THE DECISION IN DOCKET NO. 01-00802 IS NOT CLEAR PRECEDENT FOR THIS DOCKET AND THE TRA DID NOT INTERPRET IT TO BE THE LONG STANDING POLICY OF THE TRA**

In Docket No. 01-00802, the Petitioners filed for relief of deferral of certain costs related to Uncollectible Accounts.<sup>20</sup> The Petitioners had requested deferral pursuant to TRA Rule 1220-4-1-.12 and their respective tariffs under the PGA rider as the difference between the gas costs portion of the actual net write-offs for each local distribution company's current fiscal period and the gas cost portion of uncollectible account expenses currently allowed in their base rates.<sup>21</sup> In that docket, the TRA allowed for deferral of the gas cost portion of their bad debt expenses and stated that there were mitigating circumstances at the time that warranted allowing deferral of the gas portion of the excess of their bad debt expense over the gas cost portion of Uncollectible Account expenses in their base rates and directed that the recovery take place through the Actual Cost Adjustment mechanism.<sup>22</sup>

Specifically, in the Order in Docket No. 01-00802, the TRA stated:

This measure should not be understood, however, to reflect the ongoing policy of the Authority, but is adopted for this one instance only in response to the extraordinary circumstances surrounding the winter of 2000-2001. (Emphasis added)<sup>23</sup>

Even considering the extreme circumstances of the winter of 2000-2001, the TRA was very

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<sup>20</sup> Order Approving Deferral of Uncollectible Accounts, January 29, 2002, *In Re Application of United Cities Gas Company, A Division of Atmos Energy, Inc., Nashville Gas Company, A Division of Piedmont Natural Gas Company, Inc. and Chattanooga Gas Company for Approval of Deferred Accounting*, Docket No. 01-00802, p. 2.

<sup>21</sup> Id. at p. 3.

<sup>22</sup> Id. at p. 5.

<sup>23</sup> Id.



specific that the deferral decision was an exception, a one-time event and not to be construed as a change in long standing policy.<sup>24</sup>

The Petitioners erroneously state that in “Docket 01-00802, the TRA interpreted the law to allow the recovery that the Petitioners are currently seeking in this Docket.”<sup>25</sup> The Order read in its entirety unquestionably indicates that the TRA’s decision related to extraordinary circumstances and warned that such leave is not to be the recurring or ongoing policy of the TRA. The Petitioners have mischaracterized the prior decision of the TRA to be the same relief they are seeking here and attempt to claim it is precedent for this docket. This docket is different because it concerns a permanent change to the PGA rules and involves inclusion of a non-gas operating expense as a gas cost without extraordinary circumstances to justify a change.

Additionally, TRA Rule 1220-4-1-.12 was the basis for the Petitioners to seek the requested relief in Docket No. 01-00802. TRA Rule 1220-4-1-.12 no longer exists and has been repealed. Petitioners cannot seek deferral under this rule in this docket as they previously obtained in Docket No. 01-00802. Therefore, it does not constitute precedent in this matter. Based upon the foregoing, Petitioners’ Motion for Summary Judgment should be denied.

**D. THE PLAIN LANGUAGE OF THE RULES DOES NOT ALLOW FOR RECOVERY OF THE UNCOLLECTIBLE ACCOUNTS EXPENSE**

The PGA rules are composed of various definitions and formulas that constitute a

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<sup>24</sup> Id. at p. 5.

<sup>25</sup> Petitioners’ Response in Opposition to Motion for Summary Judgment, *In Re: Petition of Chattanooga Gas Company, Nashville Gas Company, A Division of Piedmont Natural Gas Company, Inc., Atmos Energy Corporation for a Declaratory Ruling Regarding the Collectibility of the Gas Cost Portion of Uncollectible Accounts Under the Purchased Gas Adjustment (“PGA”) Rules*, October 27, 2003, p. 4.

framework that defines and calculates costs of gas delivery to customers and the amounts that a gas company is allowed to bill its customers. The plain language of the PGA rules is specific and sets forth exactly what encompasses the PGA mechanism.

The PGA rules state “The PGA shall consist of three major components: (a) the Gas Charge Adjustment; (b) the Refund Adjustment and (c) the Actual Cost Adjustment (ACA).”<sup>26</sup>

One such component is the “Gas Charge Adjustment” which is defined in Rule 1220-4-7-01(4) as:

... the per unit amount **billed** by the Company to its customers solely for Gas Costs. The Gas Cost Adjustment shall be separately stated for firm customers and for non-firm customers. (emphasis added).

The Gas Charge Adjustment is the component of the PGA formula which measures the monetary amount billed and/or charged by the company to the customers. It is computed by dividing the adjustment dollars by “total sales” or “total volumes billed.”<sup>27</sup> The rule states that the Gas Charge Adjustment shall consist of revenues “billed.” The relief the Petitioners’ are seeking would mean the Gas Charge Adjustment language would have to be changed and reference to the word “billed” would have to be changed to include reference to amounts “collected.”

Also, the language in the Actual Cost Adjustment (ACA) portion of the PGA rules would have to be changed. Rule 1220-4-7-.03 (1)(c)(2) states that the ACA shall be:

... the difference between (1) revenues **billed** customers by means of the Gas Charge Adjustment and (2) the cost of gas invoiced the Company by Suppliers plus margin loss (if allowed by order of the Commission in another docket) as reflected in the Deferred Gas Cost account . . (emphasis added)

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<sup>26</sup> TRA Rule 1220-4-7-.03(1).

<sup>27</sup> TRA Rule 1220-4-7-.03(1)(a)3.(viii).

The ACA also uses the language “billed” and not “collected.” The wording in the ACA component of the PGA would also have to be changed.

The PGA rules do not use any language allowing a gas company to recover Uncollectible Accounts expense through the PGA. As such, it would be inappropriate to read into the PGA rules by exaggerating the wording to mean something other than what is stated. Merely because the Petitioners claim that Uncollectible Accounts expense is comprised of uncollectible gas costs does not automatically mean it should be incorporated in the PGA rules.

Lastly, the legislature has endowed the TRA with the power to promulgate rules and regulations to carry out the authorized public policy of the State of Tennessee with regard to public utilities. The rules promulgated by the TRA have the power of law and as such the rules of statutory construction would apply. Tennessee courts have historically used the plain language standard in interpreting and applying Tennessee law.<sup>28</sup> When determining the legislative intent of a statute, intent is determined from the natural and ordinary meaning of the language used, without forced or subtle construction that would limit or extend the meaning of the language.<sup>29</sup> This fundamental principle is carried over to the area of the practice of administrative law. Here, we can determine the intent of the rule by looking at the natural and ordinary meaning of the language used. As such, the plain language of the PGA rules does not include Uncollectible Accounts.

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<sup>28</sup> *United Telephone-Southeast, Inc. v. Tennessee Regulatory Authority*, 2001 WL 266051 (Tenn. Ct. App. 2001).

<sup>29</sup> *Consumer Advocate Div. v. Greer*, 967 S.W.2d 759, 761 (Tenn. 1998).

**E. HISTORICALLY, UNCOLLECTIBLE ACCOUNTS HAVE NEVER BEEN A PART OF THE PGA RULES**

Petitioners claim they could have included the bad debt portion of the gas costs in the ACA without a TRA ruling on the issue.<sup>30</sup> However, Petitioners are well aware that Uncollectible Accounts or any portion of Uncollectible Accounts expense have never historically been a part of the PGA rules. The Petitioners admit that it has not been the practice to allow for the recovery of uncollectible gas costs through the PGA mechanism.<sup>31</sup> Also, they have acknowledged that it has not been the practice to include Uncollectible Accounts in the PGA since the inception of the rules. This provides further confirmation that the Petitioners do not view the PGA rules to intend to include Uncollectible Accounts expense or any portion of Uncollectible Accounts expense.

It is undisputed that in each of the Petitioners' last respective rate cases, a percentage of the base rate was designed to recover costs due to Uncollectible Accounts. This percentage was based on an average of the losses for a three year period.<sup>32</sup> This method has been used in each of the Petitioners' latest rate cases and has been the long-standing method and policy of the TRA for recovery of Uncollectible Accounts expense. Petitioners cannot now suddenly claim that the PGA

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<sup>30</sup> Affidavit of Archie Hickerson, Petitioners Response in Opposition to the Consumer Advocate's Motion for Summary Judgment, *In Re: Petition of Chatannoga Gas Company, Nashville Gas Company, A Division of Piedmont Natural Gas Company, Inc., Atmos Energy Corporation for a Declaratory Ruling Regarding the Collectibility of the Gas Cost Portion of Uncollectible Accounts Under the Purchased Gas Adjustment ("PGA") Rules*, Exhibit #2 p. 12, line 20-21.

<sup>31</sup> Petitioners Response in Opposition to the Consumer Advocate's Motion for Summary Judgment, *In Re: Petition of Chatannoga Gas Company, Nashville Gas Company, A Division of Piedmont Natural Gas Company, Inc., Atmos Energy Corporation for a Declaratory Ruling Regarding the Collectibility of the Gas Cost Portion of Uncollectible Accounts Under the Purchased Gas Adjustment ("PGA") Rules*, October 27, 2003, p. 6.

rules provide for the recovery of the gas costs portion of Uncollectible Accounts. As such, Petitioners Motion for Summary Judgment should be denied.

**F. WEATHER NORMALIZATION UNDERCOLLECTIONS WERE INCLUDED IN THE PGA AND ARE NOT GAS COSTS BUT WERE ALLOWED BY SPECIAL ORDER OF THE TRA**

The Weather Normalization Adjustment (“WNA”) undercollections are not defined as Gas Costs in the PGA and have traditionally been allowed through the PGA. However, the TRA allowed inclusion of the WNA in accordance with the “margin loss” provision in the ACA portion of the PGA rule.

The TRA allowed the WNA undercollections through the Actual Cost Adjustment Portion of the PGA Rule. It was considered a margin loss and the PGA rules explicitly provide for margin losses to be included in the ACA by order of the TRA. Rule 1220-4-7-.03(c)(2) states:

The ACA shall be the difference between the (1) revenues billed customers by means of the Gas Charge Adjustment and (2) the cost of gas invoiced the Company by Suppliers **plus margin loss (if allowed by order of the Commission in another docket)** as reflected in the Deferred Gas Cost account. (Emphasis added)

In this docket, the Petitioners are not seeking recovery of a “margin loss.” They are seeking recovery of increased “Customer Accounts Expense.” The Actual Cost Adjustment mechanism in the PGA allows adjustments to compensate for changes in margin (gross profit) such as WNA adjustments. However, changes in Customer Accounts Expenses, such as Uncollectible Accounts expense, do not cause margin loss. The ACA mechanism does not allow the recovery of anything other than the cost of gas and margin losses (if allowed by TRA order in another docket). Customer Accounts expenses are included in the base rates which are set through the rate-making process.

**G. INCLUDING UNCOLLECTIBLE ACCOUNTS IN THE PGA WOULD BE A CHANGE TO THE CURRENT TRA POLICY**

A ruling to allow inclusion of Uncollectible Accounts in the PGA would be a change in the current policy, would be binding on all gas companies, would affect a large field of regulation, and would alter the plain language of the current PGA rules. The petition presently before the TRA is limited in scope to a declaratory ruling to determine the “validity or applicability” of a rule that was previously promulgated and is not for the purpose of effectuating a change to the PGA rules.

A declaratory ruling is proper when a party requests a clarification of the applicability of a rule or statute.<sup>33</sup> The Petitioners are not seeking merely clarification of the applicability of the rule, they are actually seeking an amendment/alteration to the PGA rules and this would permanently alter the framework of the PGA rules.

Specifically, the relief sought by the Petitioners would require redefinition of the formula components of the PGA rules that form the basis of the PGA mechanism. A declaratory order would not achieve this result because the language, intent and purpose of the PGA rules are clear. A declaratory ruling is an inappropriate instrument to alter or amend rules. Since there is the possibility that PGA rules would be altered in this proceeding, a rulemaking proceeding is more appropriate.

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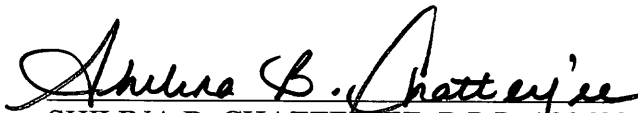
<sup>33</sup> Tenn. Code. Ann. § 4-5-223.


“Any affected person may petition an agency for a declaratory order as to the validity or applicability of a statute, rule or order within the primary jurisdiction of the agency. . . .”

## CONCLUSION

As a matter of law, Petitioners' Motion for Summary Judgment should be denied. It has been a long standing policy and practice of the TRA that Uncollectible Accounts are not included in the PGA. The plain language of the rules can not be reasonably interpreted to allow such a new and dramatic shift in policy. In order for the rules to reflect the Petitioners' interpretation, the PGA rules and the policy of the TRA would have to be fundamentally altered. Declaratory orders are not intended to change rules or policy, but rather to clarify a party's rights under a statute or rule. In this case, the Petitioners are well aware that Uncollectible Accounts are not includable in the PGA rules as they were participants in the creation of the PGA rules. Moreover, they have practiced under these regulations for more than a decade without objection. There are no extenuating or extraordinary circumstances to justify this proposed shift in policy. TRA precedent requires a showing of good cause for which the Petitioners have failed to provide. Therefore, the Petitioners' Motion for Summary Judgment fails and should be dismissed.

RESPECTFULLY SUBMITTED,

  
SHILINA B. CHATTERJEE, B.P.R. #20689  
Assistant Attorney General  
(615) 532-3382

  
VANCE BROEMEL, B.P.R. #11421  
Assistant Attorney General  
Office of the Attorney General  
Consumer Advocate and Protection Division  
P.O. Box 20207  
Nashville, Tennessee 37202-0207  
(615) 741-3533

Dated: November 20, 2003

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via facsimile and/or hand delivery on November 20, 2003.

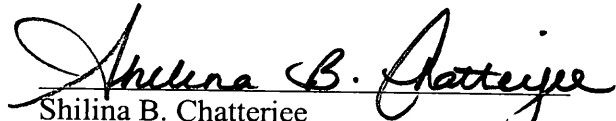
Honorable Deborah Taylor Tate  
Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

Kim Beals, Esq.  
Hearing Officer  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

D. Billye Sanders, Esq.  
Waller, Lansden, Dortch & Davis  
511 Union Street, Suite 2100  
P. O. Box 198966  
Nashville, TN 37243

Joe A. Conner, Esq.  
Baker, Donelson, Bearman & Caldwell  
1800 Republic Centre  
633 Chestnut Street  
Chattanooga, Tennessee 37450-1800  
(423) 752-9527

James H. Jeffries IV, Esq.  
Jerry W. Amos  
Nelson, Mullins, Riley & Scarborough, L.L.P.  
Bank of America Corporate Center, Suite 2400  
100 North Tyron Street  
Charlotte, NC 28202  
(704) 417-3000

  
Shilina B. Chatterjee  
Assistant Attorney General

70491



# EXHIBIT A

# **Uniform System Of Accounts**

**For  
Class A and B  
Gas Utilities  
1976**



**NATIONAL ASSOCIATION  
OF  
REGULATORY UTILITY  
COMMISSIONERS**

162      OPERATION AND MAINTENANCE EXPENSE ACCOUNTS

**Maintenance**

- 885. Maintenance Supervision and Engineering
- 886. Maintenance of Structures and Improvements
- 887. Maintenance of Mains
- 888. Maintenance of Compressor Station Equipment
- 889. Maintenance of Measuring and Regulating Station Equipment—General
- 890. Maintenance of Measuring and Regulating Station Equipment—Industrial
- 891. Maintenance of Measuring and Regulating Station Equipment—City Gate  
Check Stations
- 892. Maintenance of Services
- 893. Maintenance of Meters and House Regulators
- 894. Maintenance of Other Equipment

**5. CUSTOMER ACCOUNTS EXPENSES**

**Operation**

- 901. Supervision
- 902. Meter Reading Expenses
- 903. Customer Records and Collection Expenses
- 904. Uncollectible Accounts
- 905. Miscellaneous Customer Accounts Expenses

**6. CUSTOMER SERVICE EXPENSES**

**Operation**

- 909. Supervision
- 910. Customer Assistance Expenses
- 911. Informational Advertising Expenses
- 912. Miscellaneous Customer Service Expenses

**7. SALES PROMOTION EXPENSES**

**Operation**

- 915. Supervision
- 916. Demonstrating and Selling Expenses
- 917. Promotional Advertising Expenses
- 918. Miscellaneous Sales Promotion Expenses

**8. ADMINISTRATIVE AND GENERAL EXPENSES**

**Operation**

- 920. Administrative and General Salaries
- 921. Office Supplies and Expenses
- 922. Administrative Expenses Transferred—Cr.
- 923. Outside Services Employed
- 924. Property Insurance

Revised 1976